

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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JOHN RUSSOPOULUS, 97-A-1208, :

Plaintiff, :

-against- :

Correction Officer CATER, Correction
Officer RYDZA, Correction Officer
LEWALSKI, and Correction Officer
JOHNSON, :

Defendants. :

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**STIPULATION OF
SETTLEMENT AND
ORDER OF DISMISSAL**

Civ. 03-CV-0249(Sc)

WHEREAS, plaintiff, **JOHN RUSSOPOULUS**, filed a complaint dated June 11, 2003 ("complaint"), alleging that defendants had violated plaintiff's rights during plaintiff's incarceration in the New York State Correctional Services system; and

WHEREAS, defendants answered the complaint and denied all allegations that their conduct violated plaintiff's constitutional or other rights; and

WHEREAS, the parties are interested in resolving the issues alleged in the complaint in the above-captioned action ("Action"), and have negotiated in good faith for that purpose; and

WHEREAS, none of the parties to the Action is an infant or incompetent person; and

WHEREAS, the parties to the Action are desirous of discontinuing this litigation without the need for trial and without admitting any wrongdoing on the part of defendants;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the parties and/or their respective counsel as follows:

1. The parties hereby agree that the Action is dismissed and discontinued with prejudice.
2. Defendants shall pay to plaintiff the sum of **\$9,000.00**, in full satisfaction of any and all claims for relief in this Action, and shall pay to plaintiff's attorney, **William A. Gerard**, the sum of **\$6,175.50** in full satisfaction of any claims in this Action for attorneys fees, costs and disbursements. Payment shall be made in two checks. The first check, in the amount of **\$9,000.00**, shall be made payable to plaintiff and delivered to the correctional facility in which plaintiff is incarcerated, for deposit in his inmate facility/departamental account. The second check, in the amount of **\$6,175.50**, shall be drawn to the order of the plaintiff's attorney, **William A. Gerard, Esq.**, and mailed to him at **71 Woods Road, P.O. Box 717, Palisades, NY 10904**.
3. In consideration of the payment of the sums recited in paragraph #2 above, the plaintiff, **John Russopoulus**, hereby releases and discharges each of the defendants and any and all current or former employees or agents of New York State or the New York State Department of Correctional Services, in their individual and official capacities, and their heirs, executors, administrators and assigns, and the State of New York and its agencies, including, without limitation, the New York State Department of Correctional Services, from any and all claims, liabilities and causes of action which plaintiff or plaintiff's representatives, heirs or assigns ever had, now has or hereafter shall or may have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of this stipulation and order.

4. Nothing in this Stipulation of Settlement shall be construed as an admission or acknowledgment of liability whatsoever by any of the defendants or the New York State Department of Correctional Services regarding any of the allegations made by the plaintiff in his complaint.

5. Payment of the amounts recited in paragraph #2 above is subject to the approval of all appropriate New York State officials in accordance with the provisions for indemnification under Section 17 of the New York Public Officers Law. Except for the payment to be made to plaintiff's attorney in satisfaction of any claims for attorney's fees, costs and disbursements, the provisions of Chapter 62 of the Laws of 2001 may be applicable to payments by defendants hereunder. Plaintiff and plaintiff's counsel agree to execute and deliver to counsel for defendants all necessary or appropriate vouchers and other documents requested with respect to such payment.

6. Subject to the provisions of the foregoing paragraphs, in the event payments of the amounts recited in paragraph #2 above are not made within one hundred and twenty (120) days after the receipt by defendants' counsel from plaintiff of a copy of the fully executed So-ordered Stipulation of Settlement as entered by the Court, interest shall accrue on the outstanding principal balance at the rate set forth in 28 U.S.C. § 1961 beginning on the one hundred and twenty-first day after receipt by defendants' counsel of a copy of the fully executed So-ordered Stipulation of Settlement.

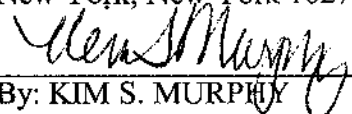
7. This Stipulation of Settlement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or

proceeding as evidence or for any other purpose, except in an action or proceeding to enforce this Stipulation of Settlement.

8. This Stipulation of Settlement and Order of Dismissal embodies the entire agreement of the parties in this matter and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings, shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

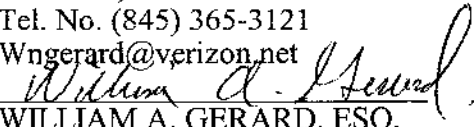
Dated: Buffalo, New York
June 7, 2006

ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendants
107 Delaware Avenue (4th Floor)
New York, New York 10271-0332


By: KIM S. MURPHY
Assistant Attorney General
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Dated: Palisades, New York
June 13, 2006

WILLIAM ANTHONY GERARD, ESQ.
Attorney for Plaintiff
107 Woods Rd., P.O. Box 717
Palisades, New York 10904
Tel. No. (845) 365-3121
Wngerard@verizon.net

By: 
WILLIAM A. GERARD, ESQ.

Dated: June 27, 2006
Elmira, New York

By: J. Russopoulos
JOHN RUSSOPOULUS
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902-0500

Sworn to before me
this 27 day of JUNE, 2006

William J. Hopkins
Notary Public

WILLIAM JAMES HOPKINS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01HO4730755
Qualified in Chemung County
Commission Expires April 30, 2010

IT IS SO ORDERED:

Dated: Buffalo, New York
July 16, 2006

ENTER:

Hugh B. Scott
HONORABLE HUGH B. SCOTT
United States Magistrate Judge